

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Bartels, Bartels & Fox, L.P.,**  
Petitioner-Appellant,

v.

**Dickinson County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket Nos. 10-30-0615 thru 0677**

On October 14, 2011, the above-captioned appeals came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Bartels, Bartels and Fox, L.P. was represented by Attorney Michael J. Houchins, of Zenor and Houchins, P.C., Spencer, Iowa. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. The parties agreed to this appeal being considered without hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record and being fully advised, finds:

***Findings of Fact***

Bartels, Bartels and Fox, L.P. (Bartels), owner of property located on McClelland Lane, Spirit Lake, Iowa, appeal from the Dickinson County Board of Review decision reassessing its properties. According to the property record cards, the subject properties consist of sixty-one residential lots on McClelland's Beach on the north side of Big Spirit Lake.

The real estate was classified as residential on the initial assessments of January 1, 2010. Bartels protested to the Board of Review on the ground the assessments are not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a), and that the properties were assessed for more than authorized by law under section 441.37(1)(b).

The Board of Review granted some of the protests by giving a -10% economic obsolescence adjustment to parcels with road easements running through the lots.<sup>1</sup> The chart on pages four and five lists the parcels appealed, the front footage, the effective front footage, the unit pricing, the initial assessments, the assessed value set by the Board of Review and the value sought by Bartels.

Bartels then appealed to this Board, alleging the same grounds.

According to the Board of Review, McClelland's Beach was formerly used exclusively as rental real estate by tenant-leaseholders. Those tenants constructed dwellings on the leased land. In 2007, the McClelland's Beach Subdivision was surveyed and platted. The subdivision received the benefit of the three-year platting law under section 441.72 for assessment years 2007, 2008, and 2009. The adjustments were removed for the 2010 assessments, substantially increasing the property assessments.

Bartels submitted a district court settlement which resolved disputes between the Bartels and the leaseholders of the beach lots. Under the terms of the settlement, Bartels offered the lots for sale to the leaseholders at a standard price of \$5000 per front foot. Subsequently, twenty-four of the lots sold to leaseholders at \$5000 per front foot (Exhibit H). Leaseholders that declined to purchase the leased land were granted lease extensions. Under the leases, the leaseholders were granted a right of first refusal and option to purchase the leased ground during the lease term. The leases set the rent amounts, a property tax base payable by Bartels, and provided that future tax increases were payable by leaseholders. The leases had a term of eleven years, expiring May 1, 2020.

Bartels submitted an exhibit in the certified record listing the land assessment of other lakefront properties on Martha Yarns and Shore Acres based on both per-linear-foot of shore-frontage values and per-square-foot parcel values. Bartels divided the land assessment by the actual lakefront footage to arrive at per-front-foot values and per-square-foot parcel values. They calculated the average value

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<sup>1</sup> The Board of Review increased a pre-existing -5% adjustment to -10% on Lots 35 and 36.

of lakefront footage at Shore Acres, which has a concrete road, is \$4221, the average at Martha Yarns at \$3500, and the average at McClelland Beach at \$4692. They contend the McClelland lots are small and cannot accommodate larger homes or garages as compared to other subdivisions' lake lots. Bartels reported that a zoning ordinance change, which increased the construction set back from three feet to six feet, coupled with the small lot sizes, restrict construction to small summer cottages and do not allow larger year-round homes. They report 58 of the 146 lots were sold since the subdivision was formally platted in 2007, but none have sold during the past two years. In brief, Bartels propose the following three pricing groups for the lakeshore property:

Lot Numbers	Price	Bartels' Comments
78-98	\$4,500	Lots have no easements or road crossing the lots
6-77	\$3,500	Lots have a road easement which makes the back of the lot undevelopable & restricts size of home
1 & 5	\$4,000	Lots Inferior beachfront, but deeper allowing larger home

The Board of Review provided an explanation of the method used for calculating land values based on front footage. The dimensions of the lot were used to calculate the effective front foot of lakeshore by adjusting the actual footage by a depth factor, then multiplying the result by a unit price. The assessor uniformly applied a unit price of \$5000 per *effective* front foot in this lake area, except for off-shoreline lots 109, 110, 111, 112, 113, 115, 120, and 121 to which an \$800 unit price per *effective* front foot was applied.<sup>2</sup> This figure would then be adjusted if it was a pie-shaped or other adjustment was needed. Exhibits C and D show the "85-15" method developed and used by the assessor for lakeshore pie-shaped lots. A map factor of 0.94 was applied to this product for all parcels. The following chart summarizes the Board of Review exhibits showing the land assessments of the subject properties<sup>3</sup>:

<sup>2</sup> We note PAAB has considered additional common evidence filed in companion Dockets 10-30-0680 and 0684 concerning off-shore lots at McClelland Beach.

<sup>3</sup> A preexisting -3% adjustment was applied to Lot 13, a -10% adjustment applied to Lot 33, a -2% adjustment for Lots 30, 34, 54, 59, 61, 90, and a -8% adjustment to Lot 94.

Docket Number	Parcel Number	Lot No.	FF	EFF	Unit Price	AV Land	Adjusted AV per EFF	BOR Adjust	BOR Land	Appellant
10-30-0615	03-10-177-025	1	67.00	73.31	\$ 5,000	\$ 344,600	\$ 4,700		\$344,600	\$ 268,760
10-30-0616	03-10-177-024	2	51.00	56.24	\$ 5,000	\$ 264,300	\$ 4,700		\$ 264,300	\$ 208,960
10-30-0617	03-10-177-023	3	64.00	64.80	\$ 5,000	\$ 304,600	\$ 4,700		\$ 304,600	\$ 260,240
10-30-0618	03-10-177-022	4	56.00	59.71	\$ 5,000	\$ 280,700	\$ 4,800	10%	\$ 252,600	\$ 228,560
10-30-0619	03-10-177-021	5	63.00	62.19	\$ 5,000	\$ 292,300	\$ 4,700	10%	\$ 263,100	\$ 254,440
10-30-0620	03-10-177-020	6	50.00	53.00	\$ 5,000	\$ 249,100	\$ 4,700	10%	\$ 224,200	\$ 235,165
10-30-0621	03-10-177-019	7	51.61	53.11	\$ 5,000	\$ 249,600	\$ 4,700	10%	\$ 224,700	\$ 182,840
10-30-0622	03-10-177-018	8	57.49	56.17	\$5,000	\$ 264,000	\$ 4,700	10%	\$ 237,600	\$ 227,710
10-30-0623	03-10-177-017	9	60.47	56.72	\$ 5,000	\$ 266,600	\$ 4,700	10%	\$ 239,900	\$ 199,990
10-30-0624	03-10-177-016	10	52.00	54.60	\$ 5,000	\$ 256,600	\$ 4,700	10%	\$ 231,000	\$ 222,635
10-30-0625	03-10-177-015	11	51.06	53.56	\$ 5,000	\$ 251,700	\$ 4,700	10%	\$ 226,500	\$ 177,100
10-30-0626	03-10-177-013	13	49.64	54.70	\$ 5,000	\$ 249,400	\$ 4,600	10%	\$ 224,400	\$ 177,135
10-30-0627	03-10-177-012	14	46.94	48.45	\$ 5,000	\$ 227,700	\$ 4,700	10%	\$ 204,900	\$ 194,215
10-30-0628	03-10-177-010	16	50.08	53.04	\$ 5,000	\$ 249,300	\$ 4,700	10%	\$ 224,400	\$ 197,645
10-30-0629	03-10-177-009	17	50.84	52.35	\$ 5,000	\$ 246,000	\$ 4,700	10%	\$ 221,400	\$ 175,035
10-30-0630	03-10-177-007	19	53.10	53.79	\$ 5,000	\$ 252,800	\$ 4,700	10%	\$ 227,500	\$ 178,710
10-30-0631	03-10-177-005	21	52.21	51.24	\$ 5,000	\$ 240,800	\$ 4,700	10%	\$ 216,700	\$ 173,740
10-30-0632	03-10-177-003	23	50.00	52.03	\$ 5,000	\$ 244,500	\$ 4,700	10%	\$ 220,100	\$ 164,290
10-30-0633	03-10-177-002	24	52.97	50.63	\$ 5,000	\$ 237,900	\$ 4,700	10%	\$ 214,100	\$ 175,280
10-30-0634	03-10-151-011	26	56.24	54.52	\$ 5,000	\$ 256,300	\$ 4,700	10%	\$ 230,600	\$ 177,835
10-30-0635	03-10-151-010	28	71.77	70.87	\$ 5,000	\$ 333,100	\$ 4,700	10%	\$ 299,800	\$ 185,850
10-30-0636	03-10-151-009	29	62.00	63.17	\$ 5,000	\$ 296,900	\$ 4,700	10%	\$ 267,200	\$ 175,735
10-30-0637	03-10-151-008	30	47.52	49.80	\$ 5,000	\$ 229,400	\$ 4,600	10%	\$ 206,400	\$ 179,060
10-30-0638	03-10-151-005	33	42.60	56.58	\$ 5,000	\$ 239,300	\$ 4,200	10%	\$ 215,400	\$ 185,395
10-30-0639	03-10-151-004	34	46.60	53.77	\$5,000	\$247,600	\$ 4,600	10%	\$ 222,900	\$ 193,340
10-30-0640	03-10-151-003	35	42.00	44.58	\$ 5,000	\$ 199,100	\$ 4,500	10%	\$ 188,600	n/a
10-30-0641	03-10-101-021	36	45.00	47.61	\$ 5,000	\$ 212,600	\$ 4,500	10%	\$ 201,400	\$ 220,815
10-30-0642	03-10-101-018	39	62.72	62.55	\$ 5,000	\$ 294,000	\$ 4,700	10%	\$ 264,600	\$ 166,320
10-30-0643	03-10-101-010	47	53.79	55.61	\$ 5,000	\$ 261,400	\$ 4,700	10%	\$ 235,200	\$ 149,100
10-30-0644	03-10-101-009	48	61.63	61.41	\$ 5,000	\$ 288,600	\$ 4,700	10%	\$ 259,800	\$ 163,100
10-30-0645	03-09-226-025	53	54.47	52.62	\$ 5,000	\$ 247,300	\$ 4,700	10%	\$ 222,600	\$ 190,645
10-30-0646	03-09-226-024	54	52.38	52.36	\$ 5,000	\$ 241,200	\$ 4,600	10%	\$ 217,000	\$ 160,195
10-30-0647	03-09-226-023	55	60.07	59.77	\$ 5,000	\$ 280,900	\$ 4,700	10%	\$ 252,800	\$ 216,020
10-30-0648	03-09-226-022	56	56.07	54.38	\$ 5,000	\$ 255,600	\$ 4,700	10%	\$ 230,000	\$ 188,265
10-30-0649	03-09-226-021	57	63.05	62.73	\$ 5,000	\$ 294,800	\$ 4,700	10%	\$ 265,400	\$ 215,705
10-30-0650	03-09-226-019	59	47.00	47.91	\$ 5,000	\$ 220,700	\$ 4,600	10%	\$ 198,600	\$ 190,645
10-30-0651	03-09-226-017	61	48.13	48.27	\$ 5,000	\$ 222,300	\$ 4,600	10%	\$ 200,100	\$ 183,330
10-30-0652	03-09-226-016	62	48.37	47.93	\$ 5,000	\$ 225,300	\$ 4,700	10%	\$ 202,800	\$ 210,245
10-30-0653	03-09-226-013	65	50.00	50.51	\$ 5,000	\$ 237,400	\$ 4,700	10%	\$ 213,700	\$ 196,245
10-30-0654	03-09-226-011	67	67.52	68.69	\$ 5,000	\$ 322,900	\$ 4,700	10%	\$ 290,600	\$ 220,675
10-30-0655	03-09-226-010	68	90.79	87.63	\$5,000	\$ 411,900	\$ 4,700	10%	\$ 370,700	\$ 167,790
10-30-0656	03-09-226-007	71	52.80	54.98	\$ 5,000	\$ 258,400	\$ 4,700	10%	\$ 232,600	\$ 168,420
10-30-0657	03-09-226-004	74	56.02	57.22	\$ 5,000	\$ 268,900	\$ 4,700	10%	\$ 242,000	\$ 169,190
10-30-0658	03-09-204-029	75	53.03	52.13	\$ 5,000	\$ 245,000	\$ 4,700	10%	\$ 220,500	\$ 175,000
10-30-0659	03-09-204-027	77	51.29	50.43	\$ 5,000	\$ 237,000	\$ 4,700	10%	\$ 213,300	\$ 236,320
10-30-0660	03-09-204-019	83	57.97	56.24	\$ 5,000	\$ 264,300	\$ 4,700		\$ 264,300	\$ 260,865
10-30-0661	03-09-204-018	84	59.84	57.80	\$ 5,000	\$ 271,700	\$ 4,700		\$ 271,700	\$ 269,280

Docket Number	Parcel Number	Lot No.	FF	EFF	Unit Price	AV Land	Adjusted AV per EFF	BOR Adjust	BOR Land	Appellant
10-30-0662	03-09-204-014	88	54.04	51.85	\$ 5,000	\$ 243,700	\$ 4,700		\$ 243,700	\$ 243,180
10-30-0663	03-09-204-013	89	53.03	51.43	\$5,000	\$ 241,700	\$ 4,700		\$ 241,700	\$ 238,635
10-30-0664	03-09-204-012	90	57.81	56.77	\$ 5,000	\$ 261,500	\$ 4,600		\$ 261,500	\$ 260,145
10-30-0665	03-09-204-011	91	50.00	49.00	\$ 5,000	\$ 230,300	\$ 4,700		\$ 230,300	\$ 225,000
10-30-0666	03-09-204-010	92	54.62	54.20	\$ 5,000	\$ 254,700	\$ 4,700		\$ 254,700	\$ 245,790
10-30-0667	03-09-204-009	93	66.80	66.46	\$ 5,000	\$ 312,400	\$ 4,700		\$ 312,400	\$ 300,600
10-30-0668	03-09-204-007	94	58.94	63.60	\$ 5,000	\$ 275,000	\$ 4,300		\$ 275,000	\$ 265,230
10-30-0669	03-09-204-005	96	54.00	54.51	\$ 5,000	\$ 256,200	\$ 4,700		\$ 256,200	\$ 253,485
10-30-0670	03-09-204-004	97	97.00	68.55	\$ 5,000	\$ 322,200	\$ 4,700		\$ 322,200	\$ 300,000
10-30-0671	03-09-204-002	98	96.85	69.60	\$ 5,000	\$ 327,100	\$ 4,700		\$ 327,100	\$ 300,000
10-30-0672	03-09-203-004	109	103.00	71.58	\$ 800	\$ 53,800	\$ 752		\$ 53,800	\$ 35,000
10-30-0673	03-09-203-005	110	52.50	52.50	\$ 800	\$ 39,500	\$ 752		\$ 39,500	\$ 35,000
10-30-0674	03-09-203-006	111	50.00	52.27	\$ 800	\$ 39,300	\$ 753		\$ 39,300	\$ 35,000
10-30-0675	03-09-203-007	112	57.65	55.64	\$ 800	\$ 41,800	\$ 751		\$ 41,800	\$ 35,000
10-30-0676	03-09-203-008	113	59.64	60.42	\$ 800	\$ 45,400	\$ 751		\$ 45,400	\$ 35,000
10-30-0677	03-09-203-015	120	63.68	63.84	\$ 800	\$ 48,000	\$ 752		\$ 48,000	\$ 40,000

We note Bartels used a different method of calculating the unit values of the properties than used by the assessor. Bartels' method failed to consider or apply any depth, shape, or map factor to the properties. The assessor considered these factors to calculate *effective* front feet, as opposed to the unadjusted front-foot measurements used by Bartels and the settlement terms.

The Board of Review provided a list of twenty-four land sales that occurred in 2007 and 2008<sup>4</sup> when the properties were first made available for purchase by leaseholders (Exhibit H). The lots range from 35.23 front feet to 72.99 front feet. Sale prices ranged from \$140,000 to \$364,950, or \$5000 per front foot. The 2010 land assessments for these properties range from \$118,400 to \$325,600, or \$3977 to \$4700 per front foot and a median of \$4367 per front foot. Bartels' lakeshore lots are assessed at \$4300 to \$5000 per adjusted effective front foot which is within the range of other lakeshore property.

The Board of Review also submitted Multiple List Service Book entries showing various parcels in December 2009 and 2010 (Exhibits J and K). Four of the December 2009 listings were for land sales of two lots included in this appeal (Lots 90 and 9). Both of these listings offer the lots for

<sup>4</sup>With the exception of one sale from 2004, the list was limited to the 2007 to 2008 time period.

significantly more than their assessed values and Bartels' proposed values. Lot 90 is offered at \$303,502, is assessed at \$261,500, and Bartels seek an assessed value of \$260,145. Lot 9 is offered at \$296,467, is assessed at \$239,900, and Bartels seek an assessed value of \$199,990. The December 2010 list includes nine listings for lots which are the subject of the appeal. All lots are offered for more than their assessed values. The lots are listed at \$5250 to \$5400 per front foot. However, the list price is not a reliable indicator of the fair market value of these lots on the assessment date since the actual sale price may vary from the listing price.

Reviewing the record, we find the preponderance of the evidence does not support the Bartels' contention its assessments are inequitable. We find the Board of Review's explanation of land pricing was reasonable and the method was applied uniformly to other lakefront and off-lake lots in Bartels' area and do not reflect inequitable assessments. Additionally, the sale prices of the leased lots established in the 2007 settlement and the actual sales of McClelland's waterfront lots do not support Bartels' claims that the properties are assessed for more than authorized by law. Their proposed values are based on unproven assumptions and are not supported by competent evidence of the fair market value of the properties. We believe the preponderance of the evidence fails to prove inequitable assessments or over-assessments of Bartels' properties as of January 1, 2010.

### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Bartels failed to prove inequity under either of these methods.

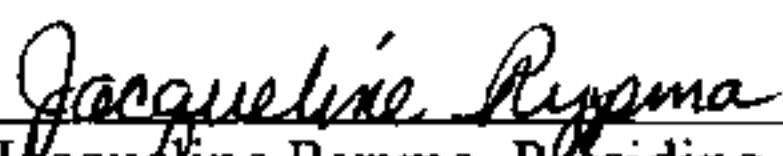
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). But this Board must be presented with more than just general assertions of what affects market value. We must look at market data to determine whether the property is assessed for more than authorized by law. In this instance, Bartels did not present any quantifiable data to show their properties were over-assessed. The Board of Review presented sales of comparable properties that

showed the subject properties are not over-assessed. We find Bartels failed to provide sufficient proof its properties are over-assessed and it failed to provide proof of the fair market value of the subject properties.

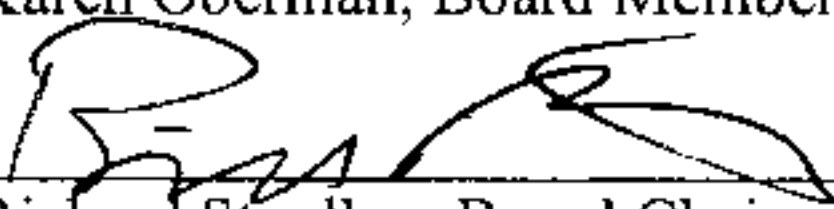
Viewing the record as a whole, we determine the preponderance of the evidence does not support the Bartels' claims of inequitable assessments and over-assessments as of January 1, 2010.

THE APPEAL BOARD ORDERS the January 1, 2010, assessments as determined by the Dickinson County Board of Review are affirmed.

Dated this 7 day of December 2011.

  
Jacqueline Rypma, Presiding Officer

  
Karen Oberman, Board Member

  
Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-13</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	